



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

ml

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,056	12/30/2003	Charles Douglas Ball	RPS920030201US1	8331
61755 7590 03/09/2007 KUNZLER & ASSOCIATES 8 EAST BROADWAY, SUITE 600 SALT LAKE CITY, UT 84111			EXAMINER SCHMIDT, KARI L	
			ART UNIT 2139	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/09/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/748,056

Applicant(s)

BALL ET AL.

Examiner

Kari L. Schmidt

Art Unit

2139

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 2/10/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 6 recites the limitation "the electrical signal is an address" which doesn't further limit Claim 4. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 17-23 are rejected under 35 U.S.C. 101 because "a computer readable storage medium comprising computer readable code" is directed to non-statutory subject matter. Generally, functional descriptive material, such as a computer program, is statutory when it is stored on a tangible computer readable medium. See MPEP § 2106 IV.B.I (a). However, in the present application, the specification doesn't define "computer readable medium", so "computer readable medium" could be, for example, paper or various transmission media. A computer program listing on a sheet of paper is not considered to provide functionality, and is therefore considered to be merely a computer program per se, which is non-statutory subject matter. Further, "transmission media" such as "communications links" as broadly defined may include non-tangible media such as signals, which

Art Unit: 2139

are also considered non-statutory. When a claim encompasses both statutory and non-statutory subject matter, the claim as a whole is directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Trusted Computing Platform Alliance (TCPA), "Main Specification Version 1.1b".

Claim 1

TCPA discloses a secure data processing device (page 1), the device comprising: a secure function module (page 2-4: asymmetric encryption co-processor) configured receive a computing module context, and to transact a secure function with a computing module in which the secure function module receives the computing module's context; a communication module configured to communicate with a first computing module, the first computing module configured to exclusively transact the secure function with the secure function module, the communication module further configured to communicate with a

Art Unit: 2139

second computing module, the second computing module configured to transact the secure function with the secure function module; (page 4: TPM) and a context module configured to set the context of the secure function module to the first computing module context and, to set the context of the secure function module to the second computing module context (page 2-4: TCPA).

#### Claim 2

TCPA discloses the device of claim 1, wherein context module is configured to set the context of the secure function module to either the first computing module context or the second computing module context (Section 2.6).

#### Claim 3

TCPA discloses the device of claim 1, wherein context module is configured to set the context of the secure function module to the first computing module context and to the second computing module context (pages 9-11).

#### Claim 4

TCPA discloses the device of claim 1, wherein context module is configured to arbitrate the setting of the context of the secure function module to the first computing module context and to the second computing module context (page 11).

Art Unit: 2139

Claim 5

TCPA discloses the device of claim 1, wherein the context module is configured to set the context of the secure function module responsive to an electrical signal (page 10 and page 314: "Such commands could be authorized with or by purely physical or electrical methods...").

Claim 6

TCPA discloses the device of claim 5, wherein the electrical signal is an address (page 10 and page 214).

Claim 7

TCPA discloses the device of claim 1, wherein the context module is configured to set the context of the secure function module responsive to data communicated to the communication module (page 4).

Claim 8

TCPA discloses a computing module, the module comprising: an identification module configured to identify a computing module to a secure computing module, wherein identifying the computing module to the secure computing module sets the context of the secure computing module to the computing module context; an address module configured to address a secure function of

Art Unit: 2139

the secure computing module; and a data module configured to exchange data with the secure computing module (page 4: TPM contents).

#### Claim 9

TCPA discloses the module of claim 8, the identification module further configured to identify the computing module with an address communicated from the address module (page 148: "Storage Root Key").

#### Claim 10

TCPA discloses the module of claim 8, the identification module further configured to identify the computing module with data communicated from the data module (page 2: "TCPA Validation Data that states the values that the measurements should produce in a platform that is working correctly").

#### Claim 11 & 24

TCPA discloses a secure data processing system, the system comprising:  
a secure computing module configured to identify a computing module responsive to the computing module initiating transacting a secure function with the secure computing module, the secure computing module further configured

Art Unit: 2139

to set the context of the secure computing module to the computing module context, wherein the secure computing module is configured to transact the secure function with the computing module; (page 2-4: Challenger/TPA) an excluding computing module configured to initiate transacting the secure function with the secure computing module, the excluding computing module further configured to exclusively transact the secure function with the secure computing module; (page 4: TPM: Asymmetric encryption co-processor) and a non-conforming computing module configured to initiate transacting the secure function with the secure computing module, the non-conforming computer module further configured to transact the secure function with the secure computing module (page 2: TSS).

Claim 12 & 25

TCPA discloses the system of claim 11, wherein either the excluding computing module or the non-conforming computing module transacts the secure function with the secure computing module (Section 5).

Claim 13 & 26

The system of claim 11, wherein the excluding computing module and the non-conforming computing module transact the secure function with the secure computing module (Section 5).



Art Unit: 2139

Claim 14 & 27

TCPA discloses the system of claim 11, wherein the secure computing module identifies the computing module from an electrical signal (page 10 and page 214:

“Such commands could be authorized with or by purely physical or electrical methods...”).

Claim 15 & 28

TCPA discloses the system of claim 14, wherein the electrical signal is an address (page 10 and page 214).

Claim 16 & 29

TCPA discloses the system of claim 11, wherein the secure computing module identifies the computing module from a data value (page 2: “ TCPA Validation Data that states the values that the measurements should produce in a platform that is working correctly”).

Claim 17

TCPA discloses a computer readable storage medium comprising computer readable code configured to: identify a computing module; set a secure computing module to a computing module context; and transact a secure function between the secure computing module and the computing module,

Art Unit: 2139

wherein the transaction is restricted to a secure function and sensitive data of the computing module context (pages 137-146 and Section 7).

Claim 18.

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to set the context of the secure computing module to an excluding computing module context, wherein an excluding computing module is configured to exclusively transact the secure function with the secure computing module, the computer readable code further configured to set the context of the secure computing module to a non-conforming computing module context, wherein a non-conforming computing module is configured to transact the secure function directly with the secure computing module (Section 7).

Claim 19

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to identify the computing module as the computing module initiating the secure function transaction (Section 7).

Claim 20

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to arbitrate the setting of the

Art Unit: 2139

context of the secure computing module between a first identified computing module and a second identified computing module (Section 7).

Claim 21

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to identify the computing module responsive to an electrical signal (page 214: "Such commands could be authorized with or by purely physical or electrical methods...").

Claim 22

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to identify the computing module responsive to an address (page 148: "Storage Root Key).

Claim 23

TCPA discloses the computer readable storage medium of claim 17, further comprising computer readable code configured to identify the computing module responsive to a data value (page 2: "TCPA Validation Data that states the values that the measurements should produce in a platform that is working correctly").

Claim 30

TCPA discloses an apparatus for secure computing, the apparatus comprising: means for identifying a computing module; means for setting a secure computing

Art Unit: 2139

module to a computing module context; and means for transacting a secure function between the secure computing module and the computing module, wherein the transaction is restricted to a secure function and sensitive data of the computing module context (page 178).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Catherman et al. (US 2005/0138434) teaches a system, a method and an apparatus for secure communications within the data processing devices.

Veil (US 6, 138, 239) teaches a system and method for executing secure transactions on a computer system.

Challener et al. (US 2003/0188179) teaches a method and system for enabling secure storage of and access to an encryption key for an electronic file system located on a data storage medium within a trusted computer platform.

Heins, Karl. Operating System Security: Microsoft Palladium teaches security within the operating system.

Art Unit: 2139

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kari L. Schmidt whose telephone number is 571-270-1385. The examiner can normally be reached on Monday - Friday: 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KS

*Taghi O. Arani*  
*Primary Examiner*  
*Taghi O. Arani*  
*3/5/07*

Art Unit: 2139